

JANUARY 25, 2006

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January 25, 2006 LB 776, 853, 870, 876, 877, 927, 928

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Pastor Roger Sloan, from the Church of Christ in Cozad, happens to be my district. Pastor, please.

PASTOR SLOAN: (Prayer offered.)

SENATOR CUDABACK: Thank you very much, Pastor Sloan, for being with us this morning. We appreciate it. I call the fifteenth day of the Ninety-Ninth Legislature, Second Session, to order. Senators, please check in. Record please, Mr. Clerk.

ASSISTANT CLERK: There is a quorum present, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Are there any corrections for the Journal?

ASSISTANT CLERK: I have no corrections today.

SENATOR CUDABACK: Messages, reports, or announcements?

ASSISTANT CLERK: Mr. President, I do. Your Committee on Banking reports LB 877 to General File; LB 927 to General File; LB 928 as indefinitely postponed. Committee on Transportation and Telecommunications reports LB 853 advanced to General File with amendments. Committee on Natural Resources reports LB 776 and LB 870 to General File. I have a priority bill designation from Banking Committee for LB 876. Notice of committee hearings from Government, and from Natural Resources. That's all that I have. (Legislative Journal pages 455-458.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to the next agenda item, legislative confirmation reports. Mr. Clerk, Natural Resources Committee.

ASSISTANT CLERK: Mr. President, the report is found in the Journal on page 434. It relates to David Hallberg and James Jenkins to the Nebraska Ethanol Board.

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SENATOR CUDABACK: Senator Schrock, Chairman of the Natural Resources Committee, you're recognized to open on your report.

SENATOR SCHROCK: Mr. President, members of the Legislature, I assume you'd like to have me do both of the Ethanol Board reports at the same time? That is...okay, I can see the head nodding. Mr. President, members of the Legislature, on January 20, the Natural Resources Committee held hearings on...confirmation hearings for David Hallberg and James Jenkins. They are both reappointments. David Hallberg is a graduate of Augustana College in Sioux Falls, and received a master's degree in advanced international studies from Johns Hopkins University in Washington, D.C. He is president and CEO of E3 Biofuels in Omaha. He's worked as a legislative director, administrative assistant to the U.S. Senate and House of Representatives, with responsibilities for energy, agriculture, international, and military affairs. David has been chairman and CEO of many industries related...many industry-related organizations, including the Renewable Fuels Association in Washington, D.C.; BioClean Fuels, Incorporated; Dakota Ag Energy, Incorporated; and was a member of the U.S. delegation to the G8 Forum on Climate Change Best Practices in Japan. He also invented the Multiple Oxygenate Product production process. He is the business representative on the board. And if you've heard about the new ethanol combination feedlot that's being built at Mead, Nebraska, David Hallberg is that person. James Jenkins has been involved in the family ranching business since the early seventies, and is president of Spring Creek Management, which operates several restaurants. He has served as president of the Nebraska Restaurant Association board of directors, as treasurer of the Nebraska Grazing Lands Coalition, a member of the Custer County Planning Commission, and a member of the University of Nebraska President's Advisory Committee. He represents the corn industry. I know...happen to know both these individuals, and I think they're both very good appointments. They are reappointments. The committee vote for the two persons involved was 6 for, with 2 people being absent. Thank you.

SENATOR CUDABACK: Thank you, Senator Schrock. Open for discussion on the report by Natural Resources Committee. Senator Chambers.

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SENATOR CHAMBERS: Mr. President, members of the Legislature, and Senator Schrock, I'm going to vote for these appointments. But I don't want my favorable or affirmative vote to be misunderstood. I am opposed to ethanol in the way that it is being "boondoggled" in this state. I resent the way that a group of purveyors and speculators rushed in under the wire last session to oblige or obligate the state down the line to spend millions and millions of dollars for these purveyors and speculators, on a product which never has measured up to what it was represented to be by those speculators. There are two large multinational corporations which are the largest producers of this boondoggle, and they have been able to keep enough pressure on Congress to maintain an inordinately high subsidy for ethanol. Any subsidy, from my point of view, would be inappropriate. But if one were to be given, it should not be at the level which exists today. The state of Nebraska, being the tagalong, thoughtless, brain-dead entity that it is, as represented by its Legislature, went along with the notion of these subsidies. We could have taken a responsible position and made sure that future generations and those of us who will still be on the earth but not in this Legislature would not be saddled with debt that is totally unjustified. When people talk about needing a higher subsidy at some levels for ethanol because of the increased cost of fuel, they are acknowledging indirectly, and directly for those who pay attention, that the production of ethanol relies on petroleum-based fuel. There is a large demand for diesel fuel. Ethanol has never reached the point where it could be the fuel used to produce additional ethanol. Ethanol does not carry its weight. It never has carried its weight. It never will carry its weight. It's more of a political entity, product, scam, than anything else. If it were not for the federal subsidy, ethanol would have gone the way of the dodo bird, as it should have. Instead, dodos who are in politics continue to maintain it. The Legislature has created a board. People are appointed to that board. Obviously, they agree with what the board is supposed to do. But they did not create the board. So I am going to vote affirmatively for these two people, but I'm going to do everything I can to prevent this Legislature from giving away more money for this worthless venture. People may not realize it, but if you produced ethanol

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at the level promised by these purveyors, it would not make up 5 percent of the energy used in this country. So when they tell you it's going to eliminate...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...dependence on foreign oil, they are lying through their teeth, because they know better. But they're aware that the public doesn't know better. And I'll quote that famous philosopher, Adolf Hitler, again. I'll paraphrase: How fortunate for those in power that the people do not think. The people do not study, the people do not know. We should have something in the way of legislation, similar to what Senator Mines brought us yesterday to shield people who are old from being scammed by these sham annuity notions. We should have something to protect the public from these kinds of scams such as ethanol. But there are elected representatives who have that responsibility but are not assuming it, in my opinion. Thank you, this time around, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You may continue. Your light is next.

SENATOR CHAMBERS: Mr. President, I just announced my true feeling about ethanol to the culture corner, those who are present. I hate ethanol. There is a representative of producers of electricity. He and a group, I guess it's in the process of formation, are trying to pressure auto manufacturers into producing more of these so-called hybrid cars. But they want to go a step beyond what is the case now. They want these cars to have batteries which can be recharged by plugging in at your home. Naturally, this will lead to the sale of more electricity, and the purveyors of electricity like that. But they claim the intent is not just to sell electricity, but to reduce America's dependence on foreign oil. That has become the abracadabra for brain-dead Americans who hear it and automatically, because they're conditioned and trained, will have an affirmative response toward whatever is being hustled. So anything that will reduce America's reliance on foreign oil is good. Then if these so-called ecoterrorists were really effective and would focus their attention on SUVs and these

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other monstrosities on the highway, and decommission them, that would decrease to a greater extent than any other effort America's dependence on foreign oil. Get those gas-guzzlers off the road. But that's not going to happen. These hybrids that the group is interested in having the auto manufacturers produce would allow these vehicles to travel 60 miles on the battery power without having to utilize gasoline. What the automakers have said is that that would be prohibitively expensive, and they probably have a point. There are a lot of crackbrained notions which nevertheless ought to be discussed, because sometimes even among these insane, crackbrained ideas will be found a kernel of value which may be used to produce something that is truly practical and worthwhile. Ethanol does not fall into that category. If you study what has happened with ethanol in this state, you will see a blueprint for bewitching, bebothering, bewildering, and beguiling legislators, who only need to be told, this will use Nebraska corn, Nebraska farmers are going to benefit, so do it. Nebraska has an increasingly aging population. Nebraskans do not have, overall, high-paying jobs. As these big business interests are being granted exemption from carrying their share of the tax burden, more of it is going to fall on the citizens. As you reach the point of fewer citizens, comparatively speaking, available to pay taxes, they are going to have to pay more to pay the same debt, because you have fewer people kicking into the pot. But at the same time this dynamic is unfolding, the Legislature is continuing to put in place programs that will obligate people...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...in the future to spend millions of dollars, tens of millions of dollars, ultimately maybe hundreds of millions, nobody knows. And we won't even get that information as elected officials. We're going to be discussing pretty soon what should be done about these well gougers, who knew that a point was going to be reached, if a settlement was entered into, where wells could not be dug, so they just went out there and started digging wells everywhere they could. And we have that problem now, and it's going to grow. And the problem that exists because of that is going to continue in place, and more and more money is going to have to be paid by

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this state, because the representatives of Kansas said they are not going to give Nebraska a break. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You may continue, if you care to.

SENATOR CHAMBERS: Thank you. I want to tie these two things together now, the boondoggle of ethanol, and the current discussion we're having, which we will enter into with greater fervor as we move down the line, about the problem that exists because these irrigators, they were profligate, profligate--take your choice of the pronunciation--they were wasteful, they were not good stewards, and they kept water from going to Kansas that should have gone there. And now Kansas is in a position to call the shots. Kansas is the injured party, not Nebraska. Why should people in Kansas, who have been cheated out of that to which they were entitled under an agreement lawfully entered into by this state, and which this state would have sought to enforce had either Colorado or Kansas done something in violation thereof, why should those who have been injured show any sympathy for the one who caused the injury, especially when they had an idiot for an Attorney General saying, you can't win this case, Kansas, just like your football team can't win football games? Why, since he is the representative of Nebraska, and the people here and their officials have a football mentality, why should anybody try to engage people such as that in a rational discussion? Why would Nebraska enter a settlement which favors Kansas? Because Nebraska is wrong, wrong, wrong. Had it gone all the way through the proceedings at the U.S. Supreme Court, Nebraska would have lost anyway, and there would have been additional legal fees and costs heaped up, and I'm sure greater liability created in behalf of Kansas against Nebraska. So we have these people on the floor of the Legislature who do not behave in a rational, deliberative manner; then when they get caught, they want to say, give Nebraska a break. It is the responsibility of legislators to exercise oversight. But if an issue requires three brain cells to work at the same time for more than six seconds, most of the legislators are out of that range. They can't pay attention anymore. The rest of their brain cells are like Teflon, nothing sticks, except the time of the next cattle call issued by the

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lobbyists to take them to the trough and feed them. Oh, they can grasp an issue if it involves \$100,000 to benefit a program that will help poor people, children, or others, and they'll find every reason to oppose it and cut it. But when we're talking about tens of millions of dollars going to speculators, purveyors, and hustlers, they can't concentrate long enough to see the problems down the line this kind of thing is producing, and they just swallow spit and roll right along with it. But when that piper must be paid, will a Legislature, because this one failed to do its duty, be talking about ethanol and the terrible burdens imposed on the then taxpayers, like this Legislature is talking about the problems of water? This...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...that I'm saying is for the record. It's not going to have any impact on anybody's mind, in the same way that things in the past have not. But since the issue is before us, I want my position to be clear. And in concluding, I want to again state my intention to vote for these two persons, because I do not hold them responsible for the foolishness created by the Legislature through its inappropriate action, its abdication of its responsibility, its willingness to roll over for the purveyors and speculators in ethanol, to the detriment of the public. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the confirmation report, Natural Resources Committee. There are no lights on. Senator Schrock, you're recognized to close.

SENATOR SCHROCK: Mr. President, members of the Legislature. Thank you, Senator Chambers, for the discussion. I do not want confrontation this morning, but I would tell you I would disagree. I do believe the man you referred to as the dictator of Germany during the Second World War, I believe he ran some of his military machinery on alcohol. But that can be another discussion someday.

SENATOR CUDABACK: Are you finished, Senator Schrock?

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SENATOR SCHROCK: Yes.

SENATOR CUDABACK: The question before the body is adoption of Natural Resources Committee legislative confirmation reports. All in favor vote aye; all opposed vote nay. Have you all voted on the reports who wish to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal page 458.) 35 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR CUDABACK: The report has been adopted. Next report, Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next report is offered by the Revenue Committee. It relates to William Warnes for the Tax Equalization Review Commission. (Legislative Journal page 434.)

SENATOR CUDABACK: Chairman of the Committee, Senator Landis, you're recognized to open on Revenue Committee report.

SENATOR LANDIS: Thank you. This is an appointment to the TERC, or Tax Equalization Review Committee. The appointment is for William C. Warnes. Mr. Warnes is a lawyer from Papillion. He's also been a real estate broker since 1985. He's been a volunteer lawyer in the South Omaha Clinic. His continuing legal education is in a wide variety of areas, but they also include bridging the cultural and language trap, Spanish-speaking clients, and in fact, I think, would be our only Spanish-speaking member of TERC, were he to be appointed. Ethical issues in estate planning, immigration and naturalization law. He is not only a lawyer, but he's familiar with real estate issues as well, having been a real estate broker and a member of that profession, as well as being a practicing lawyer with mostly an expertise in civil and criminal matters, family law, estate planning, but with a substantial minority of his practice being in the real estate law. I would ask for the adoption of William Warnes' confirmation by the Revenue Committee.

SENATOR CUDABACK: Thank you, Chairman Landis. You've heard the opening on the report offered by Revenue Committee. Open for

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discussion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, it's not often that I catch the Chairman of the Revenue Committee in an error, especially when we're discussing something as mundane as this. He said it's the Tax Equalization...and what, Senator? And Review Commission. That's...he got it correct. But before, he said "Committee." And the only reason I want it in the record, so people will be aware that this is an operation that has serious duties and responsibilities. It's not a committee. And Senator Landis just misspoke, as I'm sure I've done many times on the floor. But the letters are T-E-R-C, and it's referred to as TERC, and I always call it "turkey." I was not going to say anything except that Senator Landis said "Committee" instead of "Commission," but I was very pleased when he mentioned that...I'd like to ask Senator Landis how you correctly pronounce the gentleman's last name. Is it Warnes?

SENATOR CUDABACK: Senator Landis, would you yield?

SENATOR LANDIS: Senator Chambers, I called him Mr. Warnes in the committee, and he didn't correct me.

SENATOR CHAMBERS: Okay.

SENATOR LANDIS: So I think that's how you pronounce the name.

SENATOR CHAMBERS: I'll buy that. There was a singer, her first name was Jennifer, and I think it's spelled the same way, and I've heard people say "Warren," War-ness," and different pronunciations. And so I'm going to take yours as the official one, because somebody whose name it is would have had the opportunity to correct it. And his name is spelled W-a-r-n-e-s, for anybody who may be following the discussion. What really pleased me about Senator Landis' presentation here is that the gentleman speaks Spanish. When the commission, which formerly only had gobblers, we now have a "bilingualist," I certainly intend to support this nomination. And if I were more given to emotion, Senator Landis, I would say, I support this nomination with a song in my heart. And if I felt that way, I'm sure you'd rather it stay in my heart and not find its way past my lips.

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Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the confirmation report, Revenue Committee? Seeing no lights on, Senator...Senator Chambers...or, Senator Landis, rather, waives closing. The question before the body is adoption of the confirmation report of the Revenue Committee. All in favor vote aye; opposed, nay. We're voting on the confirmation report offered by the Revenue Committee. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 458-459.) 38 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR CUDABACK: The confirmation report has been adopted. (Doctor of the day introduced.) Mr. Clerk, Natural Resources Committee.

ASSISTANT CLERK: Mr. President, the report from the Natural Resources Committee relates to three appointees to the Environmental Quality Council. The report is found in the Journal on page 438.

SENATOR CUDABACK: Chairman Schrock, you're recognized to open on your report.

SENATOR SCHROCK: Mr. President, members of the Legislature, I wish Senator Preister was here, because this next appointment is a result of legislation that he passed last year, which created a minority position on the Environmental Quality Council. The first person I'm going to tell you about, of the three appointments, is Lawrence Bradley. Lawrence is a graduate of UNO, received a master's degree in biology from UNO, and is currently working on his Ph.D. in geography at the University of Nebraska. He also is an instructor of environmental geology at UNO. Lawrence previously worked at UNO for the dean in Native American Affairs and Recruitment, and has counseled students enrolled in the Multicultural Vantage Program. On his resume he shares he is of Hispanic descent, and was raised by his Oglala

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Lakota stepfather. His stepfather and his family were present at the hearing. Lawrence will represent the minority interest on the council. The second person is Joseph Citta of Columbus. Joseph is a Hastings College graduate, a 30-year employee of NPPD, where he serves as corporate environmental manager. He is a registered environmental manager, and is certified a hazardous material manager. Joe is a director for the Lower Loup NRD, was president of Todd Valley Wetlands Foundation, and served as chair of the environmental section of the American Public Power Association. He is a power industry representative on the council. The last person is Ron Zeiger. Ron is a graduate of Northwest Missouri State University, and a self-employed grading contractor. He served for eight years on the city council, and six as its president. He is a lifetime member of the VFW and American Legion, a founding member of the Syracuse Area Economic Development Corporation, and a member of the Nebraska Diplomats. Ron represents municipal interest on the council. The vote for these three individuals was 6 in favor and 2 absent on all three. Senator Heidemann might recall that this Mr. Zeiger, I believe, was his opponent in the last election. That would be my report, and I would recommend confirmation of these three individuals.

SENATOR CUDABACK: Thank you, Chairman Schrock. Now open for discussion on the report offered by the Natural Resources Committee. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, because of the way Senator Schrock introduced the first individual, I am compelled to ask him some questions for the record.

SENATOR CUDABACK: Senator Schrock, would you yield?

SENATOR SCHROCK: Yes, I will answer, Senator Chambers.

SENATOR CHAMBERS: Senator Schrock, looking at this gentleman's name...and I know you cannot always tell a person's derivation from his name. His last name is Bradley, B-r-a-d-l-e-y; first name, Lawrence, L-a-w-r-e-n-c-e. Did you say something about he is of Hispanic derivation?

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SENATOR SCHROCK: That is what he shared with the committee.

SENATOR CHAMBERS: When he appeared before the committee, you saw him with your own eyes.

SENATOR SCHROCK: I did.

SENATOR CHAMBERS: Could you describe what you saw?

SENATOR SCHROCK: I would have to confess that I did not see a man of Hispanic...I would not have guessed he was of that...

SENATOR CHAMBERS: Derivation?

SENATOR SCHROCK: There you go. Thank you.

SENATOR CHAMBERS: Did he speak with a noticeable accent which would indicate that Spanish is his native language?

SENATOR SCHROCK: He did not.

SENATOR CHAMBERS: So the only thing you have to go on is what he said?

SENATOR SCHROCK: Yes.

SENATOR CHAMBERS: I...thank you, Senator Schrock. I wish the statement hadn't been made that he represents the minority point of view, because when you have people whose name does not tell you anything, there is nothing about him which would suggest that, just let him be what he is, and he shouldn't have traded on his...my seatmate suggested the word "ethnicity" when I was saying "derivation," and "ethnicity" would be more accurate, based on the discussion, I presume. But I used the word "derivation" to make it as wide as I could. Maybe one day somebody in his family was in Nuevo Laredo and saw a person who spoke only Spanish, and that person in Mr. Bradley's family, way back in the dim recesses of history, pulled out a Spanish-English dictionary which also had English-Spanish, and this relative of Mr. Bradley's said, "Como aysta...como

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westa...coma...come west," and that's his connection. Maybe he ate a taco. Maybe he knows how to make hot tamales. But this person, from my standpoint, would not be the one to be described as representing the minority point of view. Those of us who insist on that type of diversity are interested in somebody who clearly is of minority background, ethnicity, ancestry. I've said on this floor, we have people as white as you all are on this floor; they will always, though, have lived as a black person, functioned as a black person, have relatives who clearly are black people. My own mother fits that description. But to have this person declared to be the minority representative is something that I will not agree with, I will not consent to.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: That will not cause me to vote against the person, maybe. But we had a person some years ago who said he was white when he was not, but he thought that would get him an appointment to the Parole Board. These are serious matters with me, and I'm not going to let them pass without exploring them and explaining some things which my colleagues may be unaware of. And that's a role and function that I ought to serve here. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Schrock, followed by Senator Aguilar and Senator Chambers.

SENATOR SCHROCK: Mr. President, I do have a letter here from Senator Preister on behalf of this individual, and I think the man is very qualified. I'm not going to quarrel with Senator Chambers about his ethnic background and whether he is suited to represent the minority interest, but he does have a lot of interest in minority issues and multicultural issues. He also is a graduate of Technical High School, and he is very knowledgeable on the lead issues and the...that was caused...and the problems that have been caused in Omaha because of ASARCO, Senator Chambers. And we did talk to him about that, so I think he's very committed to the position, I think he's very committed to the issues in Omaha, especially the ASARCO issue. So you know, that's my report, and I guess I'll leave it at that. But if you have any other questions and you would want to delay this

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for some reason or other, we could get some more information.

SENATOR CUDABACK: Thank you, Senator Schrock. Further discussion, Senator Aguilar.

SENATOR AGUILAR: Thank you, Mr. President, members. I'd like to make a couple points, one to kind of agree with Senator Chambers, and then one to disagree with him. There's many different scenarios that could come about with a person of Hispanic heritage having the last name of Bradley rather than a Rodriguez or a Garcia. His mother might have been full-blooded Hispanic and his father not. That's certainly a possibility. But to follow up on Senator Chambers' point, there are certain situations in life where certain people really don't have the qualifications. And I'm not saying that this gentleman doesn't, Senator Schrock. I'm just making a point. I've been asked to serve on various committees in Grand Island as a representative of, for instance, the immigrant population. And I've declined to do so because I really don't have the background. I really don't know what it's like to be an immigrant. I've never been one. I was born in Grand Island, Nebraska, as my father was. So there are different issues, from that perspective, that I would not consider myself qualified to comment on. I do have a lot closer contact with the issue and speak with a lot of those groups on occasion and know a little bit about them from that background, as I'm sure Mr. Bradley does because of his nomination. I can't believe he would have got the nomination if he wasn't capable of fulfilling the job. And that's all I wanted to touch on, on that. If Senator Chambers wants any more time to comment, he's welcome to the rest of mine.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Aguilar. And I would agree with what Senator Aguilar said, up to a point. And I've mentioned this morning and in times past that my mother could sit among all of you all, if she were still alive, and you wouldn't know that she's my mother based on her complexion, the color of her hair, the color of her eyes. So skin color is not always indicative of the choice that a person has made about where he or she will live, with whom he or she

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may cast his or her lot. But when we're talking about a category established by law, and it relates to what is called a minority position or representation, something more is required than somebody who has shown an interest in, quote, the problems, unquote, of minority groups, however they may be defined. Many white people have made hundreds of thousands of dollars studying black people, living around black people to gather information, teaching in black schools to gather information. So the mere fact that somebody has spent time around a group does not necessarily qualify that person to be considered a minority group member. And I'm making that clear so people who may try to trade on that will not do so. From what Senator Schrock said, this gentleman is qualified to be on this council. Well, just say you couldn't find a minority group member. Maybe you didn't recruit enough. You don't reach out far enough. There are people who are white being disenrolled from Indian tribes. They wanted to be there to try to get some of the casino money. Money is a strong motivator. And these people might say, well, I have one-thirty-second of Indian blood in me, so I qualify as an Indian. They don't live like Indians, they don't look like Indians, they don't cast their lot with Indians. And I'm using the terms that they use.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: And when Indians are insulted or discriminated against, they don't run to the forefront and say, I'm an Indian; treat me like you treat these Indians. No, they pass for what they are, white people. There are a lot of so-called white liberals who say they want to help black people overcome racism and discrimination, but while talking against it, they and their children benefit from the racism, the segregation. In South Africa, some of the strongest speakers against Apartheid lived in segregated white neighborhoods, their children went to segregated white schools, they belonged to segregated white country clubs, where they could swim, and their children with them, in segregated pools. So those of us who are on the underside of the garment judge these things entirely differently. And white people make a mistake...

SENATOR CUDABACK: Senator Chambers, you're now on your time.

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SENATOR CHAMBERS: Thank you, Mr. President...when they say, some of my best friends are colored. That's the worst thing, the most insulting thing a white person can say. No white person's best friend is, quote, colored, unquote. This so-called best friend is not one with whom he or she socializes with. If that best friend has a child of the opposite sex to the child of this white person proclaiming this individual to be his or her best friend, they don't want them to come together and marry or do the things that married people do without the benefit of marriage. Well, best friends, their lives blend. So don't say that. And it takes more than a notion to be viewed by black people as somebody trying to work with us to achieve the goals of fair treatment in all areas of this society. And when we find people trading on this concept of being a minority, and you don't see anything that, in this society the word would be "stamps" them as such, then we view them as exploiters. I'm not saying Mr. Bradley is a bad man. Maybe I've met him at some time in my life. I'm not saying he is immoral. I'm simply saying that when the statute creates in law, on a commission, a council, or any other statutorily created body which has duties and responsibilities, we who in fact are what have been branded minorities don't want to come to that council and have to speculate which of them is the minority person. Is that person a minority because her hair is blonde? Is she a minority because all the others are male and she's the only female? With what Senator Schrock said about this man, he is eminently qualified to be on the council. But I need to ask Senator Schrock a question. Senator Schrock, I'd like to ask you a question.

SENATOR CUDABACK: Senator Schrock, would you...?

SENATOR SCHROCK: Senator Chambers, yes, I will answer.

SENATOR CHAMBERS: Senator Schrock, as I look at this report, three positions were open on the council.

SENATOR SCHROCK: That's correct.

SENATOR CHAMBERS: So we cannot say that Mr. Bradley was given

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this slot because the only slot open was that available to a minority group member. That is not the case, is it?

SENATOR SCHROCK: That would...you're right, that would be the case. You're correct.

SENATOR CHAMBERS: Okay.

SENATOR SCHROCK: Senator Chambers, can I add something here?

SENATOR CHAMBERS: Anything. I'm...if you can enlighten me or add to it.

SENATOR SCHROCK: I don't know if this matters, but his family was there, and certainly his stepfather who raised him had all the appearances of a Native American. Certainly, his wife looked very Hispanic, and his children looked Hispanic. I don't want to be judgmental, because I don't want to, you know...but I would certainly say that. But as far as Mr. Bradley, it was...that would be something that would be a question, as to whether he appeared to be Hispanic or not. And I don't know if I'm saying the politically correct thing or not, but I would share that with you. We selected him because of his quality and qualifications. And he's very qualified. He seemed very knowledgeable about the lead issue in Omaha. And I don't know if that has anything to do with it, but like I said, his family was there. His wife certainly appeared to be Hispanic; his father certainly had the appearances of Native American, whatever that might be. And I think...if I have any committee members that would like to reaffirm that, please jump in here, but that would be my observation.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: For me.

SENATOR CUDABACK: Yes, I'm sorry.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the lady who spoke to me is Cindy Grandberry. She works in my office. And she received a phone call from Celia

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Huerta, who said that his mother is Mexican, that's the word that was used; that his father was not; that his children speak Spanish. So I am reassured on that score this morning, and I'm glad I engaged in the discussion, and that issue, as far as this gentleman is concerned, was cleared up. Was this my second time, Mr. President?

SENATOR CUDABACK: Yes, it is, Senator.

SENATOR CHAMBERS: I'm going to put on my light so I can wrap this up. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Preister.

SENATOR PREISTER: Thank you, Honorable President, friends all. Since I'm somewhat responsible for Mr. Bradley being before ua, I apologize, Senator Schrock, Senator Chambers, and others, for not being here earlier to perhaps answer questions that people may have. I share the concerns that have been expressed by Senator Chambers. I find it a little troubling to even have to talk about somebody's race, because I believe we should judge people by their character, by who they are. But I'm also sensitive to the fact that somebody who has lived a certain experience has a much different outlook than someone who has not lived that experience. And since I have been trying to get the Environmental Quality Council to be broader-based, to take into account a broader experience rather than just an economic experience, I have long sought to have a low-income minority representative on the council and to change the makeup from essentially controlled or dominated by industry people. Finally, with the help of the Legislature's Natural Resources Committee, we had one opportunity, and that was for, in the amendment, a minority representative. Mr. Bradley, as I sent information out as broadly as I could to ask people if they were interested and to get minority representatives to come forward, Mr. Bradley was one of the people that came forward. His name...he applied to the Governor. I did send a letter along with his recommendation, after he asked me to. And I believe that he is well qualified in his experiences. I think that he can represent and provide a voice, which he's already done on

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the Environmental Quality Council, that takes into account the impact that, whether it's lead and lead emissions, or whether it's other industrial kinds of consequences to low-income and minority people, I think he can do. His degrees, two degrees in biology, help him to have a technical understanding. Having grown up on an Indian reservation, Native American reservation, I think helps him to understand a certain experience that he can bring as well. I don't know his exact makeup, and again, I don't really like to talk about somebody's ethnic makeup, because I'd rather look at a person as a person. His mother was white, as I understand it, his father was Hispanic, and his stepfather was Native American, and thus, he grew up much of his life on the reservation. He currently lives, although I don't have the exact address, in the inner city of Omaha, which is an area that is greatly impacted by some of the environmental contaminants from old industrial plants, the remnants of which, some, only a few are still there, most are gone, but the consequences of tend to live on, and that we're still dealing with. In my experience in working with Mr. Bradley, he has a sensitivity to the community, he has a sensitivity and appreciation for doing the right thing for the right reasons for those people who frequently do not have a voice or are not feeling empowered to express that voice. So I support Lawrence Bradley in this nomination, have supported him.

SENATOR CUDABACK: One minute.

SENATOR PREISTER: Are there other people that I would like to see on the Environmental Quality Council? Certainly. Were there others that came forward? I can't off the top of my head think of any other candidates that I got, even though I tried to find other people to apply. At this point, I appreciate the discussion. I think it is important that we talk about these things. And I remain committed to Lawrence Bradley and to his appointment to the Environmental Quality Council, and I thank the Natural Resources Committee for having their hearing, for giving him probably more questioning and more time than frequently happens in confirmation hearings, and to Senator Schrock for helping me to get the legislation through the committee and passed on the floor that would allow a minority representative to even be on the...

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SENATOR CUDABACK: Time, Senator Preister.

SENATOR PREISTER: ...Environmental Quality Council. Thank you.

SENATOR CUDABACK: Thank you. Senator Schrock. And this will be your third time, Senator. Senator Schrock waives the opportunity. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the information I was given by way of note was that his biological father was Mexican, his mother is Irish. So maybe he took his mother's last name. But at any rate, some of the information which has surfaced could have led to a different type of discussion had it been made available sooner. Any time one of these commissions or boards has a person appointed, and that person is identified as a member of a minority group or as a minority, making it a noun, I'm going to inquire into that. There are so many instances when people may have a last name that would suggest he or she is a member of a certain ethnicity, and it's not true at all. I had stated near the very beginning that based on the qualifications cited by Senator Schrock, this man would be qualified to serve on this council, as far as what the council does. But I was very concerned, as I've expressed, about placing a person on a council as a minority representative who may not in fact be such. And I'm sure if Mr. Bradley has all of the understanding that we conclude that he has from the activities he's been involved in, he will understand, maybe better than people on this floor, why I've taken the approach that I have. And I will do it again when such an issue arises. So if an individual is going to be presented to the body as a minority group member or a spokesperson for minorities or a representative, they, whoever presents it, should be prepared to explain why that designation is given, and the justification for it. I wish Senator...he's not here, Senator Raikes. I want to ask Senator Schrock a question, because he would probably know the answer.

SENATOR CUDABACK: Senator Schrock, would you yield?

SENATOR SCHROCK: Yes, I will.

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SENATOR CHAMBERS: Senator Schrock, is the Environmental Quality Council the group that would have agreed to let Senator Raikes confine more cattle? Or is that a different group? Is that an EPA or something like that?

SENATOR SCHROCK: Senator Chambers, there's some relationship, because the Environmental Quality Council would make rules and regulations for our livestock waste facilities. But the body that Senator Raikes had to go before was the county board and the zoning committee. But certainly, his feedlot facility is going to have to meet the standards set forth by the Environmental Quality Council as it makes rules and regulations on livestock waste.

SENATOR CHAMBERS: All right. In reading the article about it, for some reason I got the impression that the council may have commented about it. And if Senator Raikes were here, I was going to have a little fun with him. And maybe he realized it and that's why he didn't show up. But at any...oh, Senator Schrock?

SENATOR SCHROCK: I'm not aware that the council made any comments on Senator Raikes' feedlot. I could be mistaken there, but I don't think that took place.

SENATOR CHAMBERS: Okay. And I'll accept that. I am going to vote for this appointee. And if he was not able to hear the discussion, I'm going to get a transcript of what I said and I will make it available to him and tell him he's free to react to it, to me or to anybody else, in any way...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...that he would see fit. I don't want to just have these views, when they may have a bearing on what my conduct is going to be, and not make them known, especially to the person involved. I'd like to ask Senator Schrock one more question.

SENATOR CUDABACK: Senator Schrock.

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SENATOR SCHROCK: Yes.

SENATOR CHAMBERS: Senator Schrock, I didn't gather for sure whether you said it or whether it would even be true, but are these other two persons new or are they reappointments, if you know?

SENATOR SCHROCK: They are both new, Senator Chambers.

SENATOR CHAMBERS: Okay. Thank you. Thank you, Mr. President.

SENATOR CUDABACK: Senator Chambers. Further discussion, confirmation report. Senator Stuhr, followed by Senator Preister. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I just wanted to comment that I was a member of the Natural Resources Committee that listened to the confirmation, and I believe unanimously approved the confirmation for Mr. Bradley. I personally was very impressed with this young man, who has worked very hard in obtaining several degrees, and was also working on his doctorate degree. I supported Senator Preister's amendment last year, which I thought was important, that we do have a broad representation on the Environmental Council. So again, I believe that Mr. Bradley is going into this serving on the board really with a very open mind, and would represent this group very well. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Preister.

SENATOR PREISTER: Thank you, Honorable President, friends all. Thank you, Senator Stuhr, for your comments, but thank you also for your help in the committee, your sensitivity to the issue and your willingness to work on it over the years on the Natural Resources Committee with me. I think this process is a good one, is a healthy one, and I'm grateful to Senator Chambers to bring up the issue, because it's an issue that I've been working on. When we have these positions, we do need to have more than just aged white men serving in capacities where they're the only ones on these boards and groups, and where they're looking out

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for a set interest, and usually it's an economic interest. We need to have women on our boards and our commissions and in positions of responsibility. We need to have true minority representation on boards and commissions and in other areas where particularly we as government can take the leadership role and help to make it available to them. So to have somebody in a representational position who doesn't truly represent that group would be unfair to the individual, but it would be unfair to all of us. So I appreciate raising the issue. I have no problems in justifying somebody that I think is qualified in all of those areas. I think Lawrence Bradley is, and I would not be unsensitive to him to bring up things from his background on the record that I think would help to add to who he is, but certainly not be kind to family or to other people. So having the discussion, ensuring that we truly have representatives from low-income groups, from minority groups, including women, I think is important. And I think it's consciousness-raising. This discussion is valuable, it is important, it's part of the whole discussion that I've been trying to bring to the floor, based on the makeup of the council. And that Environmental Quality Council does set the standards for the environmental regulations that are enacted through the state of Nebraska. And those things impact low-income and minority people differently, because there are far more minorities, far more low-income people living around these industrial centers and feeling the direct impacts than people who have more money, who can...and I'm not disparaging people with wealth or power, but they can afford attorneys, they can afford to have a voice in the halls of government and in other locations, so they can look out for themselves. They can also afford to purchase property in areas that aren't impacted by air and air emissions. It's low-income and minority people that thirst for environmental justice, and they're the ones that are impacted, because they can only afford to live next to these plants. And it's also closer for them to work, so frequently they work in these places. And they feel the impacts, their families feel the impacts, and I, too, want somebody who understands that from the experience and understands that in a way that they bring that perspective to helping to set these regulation standards. And I appreciate the dialogue. I continue to appreciate the committee. And I would needle them a little bit. I wish I had been able to get more

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changes to the Environmental Quality Council. But I've been around here long enough to take compromise and to at least have one. And from my view, I think Lawrence Bradley will do an exceptional job in looking out for all of the citizens of Nebraska, particularly minorities and low-income people, who certainly will have...

SENATOR CUDABACK: One minute.

SENATOR PREISTER: ...the opportunity to express those issues and concerns with him, because he's a very open person, and one who I think is very dedicated and committed. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Preister. Senator McDonald.

SENATOR McDONALD: Mr. President, members of the body, I also serve on the Natural Resources Committee and listened to the confirmation. I was very, very impressed with this gentleman. He not only represented the minority part of the requirement, possibly lives in a low-income area, but is a biologist, and was concerned about the environment. And I think that we're very, very lucky to find someone to fill all those needs on this commission. So I think that the person that brought him here...and if that's Senator Preister, I commend him for that, because this gentleman felt and filled all the requirements that I felt that were necessary for that position. And so with that, I certainly do support him. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. Further discussion? Seeing no lights on, Senator Schrock, you're recognized to close on your report.

SENATOR SCHROCK: Mr. President, members of the Legislature. Senator Preister, your needling is accepted. I appreciate that. And you know, if you're persistent, why, sometimes things happen, good things happen. Senator Chambers, you are very correct in offering your concern about the minority status of this individual, and I should have been better prepered. I am glad that Cecilia from the Mexican-American Commission called

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your office. I'm glad Senator Preister came up with more information. And I would tell you that Cecilia was present at the hearing. And so with that, I will conclude my remarks, and I'm...I think we bring three very qualified individuals to the Environmental Quality Council here. Thank you.

SENATOR CUDABACK: You've heard the closing on the report by Chairman Schrock. The question before the body is, shall that confirmation report offered by the Natural Resources Committee be adopted? All in favor vote aye; all opposed vote nay. We're voting on the confirmation report offered by the Natural Resources Committee. Have you all voted on the report who...record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 459-460.) 39 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR CUDABACK: The report has been adopted. Mr. Clerk, next report.

ASSISTANT CLERK: Mr. President, the next report is offered by the Retirement Systems Committee. It's found in the Journal on page 441.

SENATOR CUDABACK: And there will be two reports, correct, Mr. Clerk? Thank you. Senator Stuhr, to open.

SENATOR STUHR: Thank you, Mr. President and members of the body. Yes, I would request that we have two separate reports, one for the Investment Council, and one for the PERB board. I will open, if that is all right, on the Investment Council confirmation.

SENATOR CUDABACK: You may do so, on your first report.

SENATOR STUHR: Thank you, Mr. President. The Nebraska Retirement Systems Committee recently held this confirmation hearing on January 23, 2006. And it is for the new appointment to the Nebraska Investment Council. And members on this council make decisions concerning how public funds are invested, in

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addition to overseeing the investment of state public pension dollars. The conferee, Mr. John Maginn, is a new appointee, and he was appointed to fill a position for a five-year term. Mr. Maginn has been in the financial services industry for the past 44 years, and while serving at Mutual of Omaha for most of the time, he rose to the top position of executive vice president, chief investment officer, and treasurer. Mr. Maginn will bring a wealth of investment experience to the Investment Council, and he is well qualified to make decisions regarding the investment of public funds. The Retirement Committee unanimously voted to move Mr. Maginn's appointment to the Legislature for confirmation, and I would ask for your support in confirming this appointment to the Nebraska Investment Council. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the opening on the first report offered by the Nebraska Retirement Systems Committee. Open for discussion. Senator Stuhr, there are no lights on. Senator Stuhr waives the opportunity to close. The question before the body is adoption of the Nebraska Retirement Systems Committee report, confirmation report, that is. All in favor vote aye; opposed, nay. Have you all voted on the first report who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 460-461.) 30 ayes, 0 nays on the adoption of that portion of the report, Mr. President.

SENATOR CUDABACK: That portion of the report has been adopted. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the second portion of the report is the appointees to the Public Employees Retirement Board. (Legislative Journal page 441.)

SENATOR CUDABACK: Senator Stuhr, to open on the second portion.

SENATOR STUHR: Thank you, Mr. President and members of the body. We have two conferees for the Public Employees Retirement Board, also called PERB. And this board oversees the administration of the five public employee retirement plans,

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which include the school employees, the State Patrol employees, judges, and the state and county employees. The first conferee recommended was Mr. Richard Wassinger, and Mr. Wassinger currently serves as the county treasurer for Cass County, and has held that position since 1983. He is being appointed to serve as the county member representative to the board. His appointment was unanimously approved by the Retirement Committee. We appreciate Mr. Wassinger's commitment to public service, and ask for your support in his confirmation to the Public Employees Retirement Board. The second conferee recommended is Judge Glenn Camerer to the Public Employees Retirement Board. He has been appointed to serve a five-year term as the judge member represented to the board. Judge Camerer resides in Gering, and has been a county judge for the 12th Judiciary District since 1973. He stated in his confirmation hearing that he believes he will be able to make a positive contribution as a member serving on the board. His appointment was also unanimously approved by the Retirement Committee. I ask for your support for Judge Camerer's confirmation to the Public Employees Retirement Board. And I might add that both of these are newly appointed members to these boards. So I ask for your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Open for discussion on the second part of the divided report, Retirement Committee. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. Very briefly, I just rise in support of Judge Camerer being appointed. He is a very conscientious individual who looks out for many people, and a firm judge. I think he does a fine job. But he's very interested in the process and the retirement programs, and I certainly support and urge you to support his confirmation. Thank you.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Wehrbein, on the second part of the divided report.

SENATOR WEHRBEIN: Yes, Mr. President, members of the body. I just want to add my support to Dick Wassinger as a member of this board. He's been a county treasurer in Cass County

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since '83, and done a very, very good job, very, very detail-oriented. I know he'll be a good member of this board. Thank you.

SENATOR CUDABACK: Senator Wehrbein. Further discussion? There are no further lights on. Chairperson of the Retirement Committee, you're recognized to close. Senator Stuhr waives her opportunity. The question before the body is adoption of the second portion of the divided report by the Natural...or Nebraska Retirement Systems Committee. All in favor vote aye; opposed vote nay. Have you all voted on the report who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal page 461.) 31 ayes, 0 nays on the adoption of that portion of the report, Mr. President.

SENATOR CUDABACK: The second portion has been adopted. Mr. Clerk, items for the record, please?

ASSISTANT CLERK: Mr. President, I do. Thank you. A series of notice of committee hearings offered by the Revenue Committee. I have a motion from Senator Beutler to place LB 930 on General File notwithstanding the action of the committee. New resolutions: LR 284 by Senator Aguilar, and LR 285 by Senator Smith and others. Amendments to be printed to LB 366 from Senator Stuhr. Your Committee on Enrollment and Review reports LB 764 and LB 765 as correctly engrossed. (Legislative Journal pages 461-464.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now move on to the next portion of the agenda, General File, LB 32. Mr. Clerk, inform the body where we were with LB 32.

ASSISTANT CLERK: Mr. President, LB 32 was introduced by Senator Schrock. (Read title.) The bill was read for the first time on January 6 of last year, referred to the Natural Resources Committee. The committee reported the bill to General File with no committee amendments. It was considered by the body yesterday. At that time, an amendment was offered by Senator Beutler. That's AM1696. That issue was pending when we

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adjourned for the day yesterday. (Legislative Journal page 441.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schrock, would you like to give us a brief summary of the...LB 32?

SENATOR SCHROCK: Yeah. Mr. President, members of the Legislature, what LB 32 does, it raises the number of days that an NRD board member can collect a per diem. With the increased activities of NRD boards, especially with the implementation of LB 962, we are finding that some of them are spending more than 40 days a year working on these issues. This would allow them to collect up to 50 days' worth of per diem. I would also remind you that a lot of the NRDs are not paying the maximum per diem, and a lot of the board members are using their own time to work on these issues. It's a fairly straightforward bill, brought to us by the Association of Natural Resource Districts, approved in committee unanimously. And we're having a discussion now about what to do with Republican River water, and Senator Beutler has had some comments on that. I think I'll wait and respond to what he has to say this morning. But with that, at some point in time, certainly would like to move the bill forward.

SENATOR CUDABACK: Thank you, Senator Schrock. Senator Beutler, would you give us a brief summary of your amendment to the...LB 32?

SENATOR BEUTLER: Senator Cudabeck, I actually didn't give a summary of my memory the first...of my amendment the first time, since we were doing some background in order to fully understand the amendment. But to put it in a nutshell, the amendment would give the Department of Water Resources the power to say what measure of water would be given to a certain grouping of wells that were dug and registered after January 1, 2001.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on the Beutler amendment to LB 32. Senator Don Pederson, followed by Senators Baker, Preister, Stuthman, and Bautler. Senator Don Pederson.

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SENATOR D. PEDERSON: Mr. President, members of the Legislature, as we're discussing the amendment by Senator Beutler, and I've spoken to him a bit about this, I have a concern. He mentioned yesterday that perhaps this is the wrong amendment in the wrong bill, and of course, we're dealing with a bill that doesn't have a whole lot to do with what this amendment is. But I think this has offered a good discussion on what I think we can accurately describe as the problem of the decade for Nebraska; that is, how to deal with our water issues in the state. My concern about the amendment that Senator Beutler has proposed is that we are dealing with a specific response to the water problem, and tagging it to a specific proposal. I think that actually the problem that we have is broader than what is proposed in the amendment. And this...and very shortly, we are going to be briefed in our Appropriations Committee by the Attorney General's Office in connection with their proposals of what they're looking at in connection with this. But I think it's very important that we as a Legislature understand the problem, and that...I think that we don't want to approach it in a piecemeal fashion. I think we have to look at what will deal with the short-range and then also the long-range solution to the water issue in the state of Nebraska. On the specific proposal that Senator Beutler has, I was able to speak last night with several members of the natural resources districts, and they have a concern as to how far this would extend. The handout that Senator Beutler gave us the other day dealt with the Lower, the Middle, and the Upper Republican River, but their concern is, the broadness of this proposal could affect a lot of other districts and a lot of other matters. I know specifically there was a concern that this could even effect up in the area where the NPPD has drilled a number of wells to continue to supply the Gentlemen power plant, because it does filter down into this area, and it could be applied in this area. And that's the reason why I think it's premature to be trying to resolve the problem by a specific amendment such as Senator Beutler is proposing. And I understand that in the long run he's not going to pursue this to a vote. But I think it is important that we talk about the issue, but...and I do respect his concerns about how we're going to pay for these things and how we're going to control the activities of various users of water in the state. I think it's been a good discussion between

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he and Senator Schrock as to the primary issue. But I would just ask you to listen to what they're saying about what the water situation is, and then later I think we can come in with a proposal that hopefully will be broader, hopefully will be able to be more encompassing, and will truly deal with the water issue that we have in the state. With that, I thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. On with discussion. Senator Baker, followed by Senators Praister, Stuthman, Beutler, Kopplin, and five others.

SENATOR BAKER: Thank you, Mr. President, members. I, too,...second guy doesn't stand a chance here after Don...Senator Pederson. But I...we need this discussion. We need it badly in this body. And it is a more broad issue than just Republican River Basin. We're leading the way out in the Republican River Basin because of the compact settlement with Kansas and Colorado, so we're getting the publicity right now. But believe me, I hope you're listening, the next basin could be yours that we're going to be talking about. I remind the Repub...or, the Platte River Basin is overappropriated from Elm Creek, west. That's a major problem. So although we're talking about Republican River Basin issues today in this amendment, it's a more broad problem than just Republican River Basin. And I have to admit, mistakes were made, yes. Timing was bad. We're in the middle of a drought. Without that drought, normal precipitation the last few years, we wouldn't probably be talking about this, because some of the controls, the allotments that we have implemented via LB 962, they're out there, they've worked well. We have records now from at least the Upper and the Middle Republican that show we allotted...well, we know...we allotted 13.5 inches in the Upper Republican. There's been...as Senator Beutler's sheet shows, there's been seven new wells drilled in the Upper Republican in the last, I think, six or seven years, practically none. We used less than our allotments. We saved many, many thousands of acre-feet. We could have pumped 13.5 inches in the Upper. I think the figure was 11-something-or-other in the Upper. The Middle was allotted 13 inches per acre. We pumped 8.94, I believe, was the number there. All our wells are metered. We've made tremendous strides in what we've been doing. What

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frustrates me as a senator who represents that area is, we've made the effort, actually pumped a lot fewer acre-feet than we were allotted last year, and the response time from these lower pumping rates is going to lag a year or two, three, ten years before we see results. One of the other issues that we have addressed in the Republican, and somewhat in the Pletta, is the Conservation Reserve Enhancement Program, commonly called CREP. There's about 40,000 acres involved in that pipeline in the Republican River Basin either has been accepted or is going through the review process. Those are wells that have to be within two...was it two or two and a half miles, of the center of the stream, that are taking land out of production, irrigated production, for...in exchange for federal payments, and there's some small match in the state. But we've leveraged that small payment from the state greatly to access the federal payments. Those results are going to start kicking in as soon as next year. So we are making progress in simply retiring those. And Senator Pederson made a good point, we have to be able to sustain these cuts in water use. And it's not just a Republican River Basin issue, although that's what we're focused on now, I admit. It's not going to be just Republican River Basin. This is statewide...a statewide issue. And I know there are a number of districts and natural resource districts out there looking at well drilling moratoriums, some discussion of a statewide moratorium, and so on. So I would be glad to participate in the discussion and try and answer questions. If there's questions asked by senators from outside the basin, we will get the answers, specific answers. But we're making a herculean effort out there to reduce consumption. It's working, and we will start seeing results almost immediately on a small scale. And as the time goes on, they will be accumulated to where you can see some major reductions in water use and increased stream flows. Thank you, Mr. President.

SENATOR CUDABACK: Senator Baker. Further discussion on the Beutler amendment. Senator Preister, followed by Senator Stuthman and others.

SENATOR PREISTER: Thank you, Honorable President, friends all. I appreciate the work that's going into all of the ramifications of what happens with water and water shortages, particularly in

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the Republican River Valley, as it applies to the compact that we entered into on that. Senator Schrock has certainly worked long and hard on that issue; equally so has Senator Beutler. I think they both have the same end in mind, but they have different means to get to it. I value Senator Beutler raising the issue. As all of that unfolds, and as it is certainly topical and important to discuss, I don't want to fully lose sight of the underlying bill, LB 32. And that is a bill that I also support, and thank Senator Schrock for bringing. The natural resources district members on their board serve, and serve without pay. They are dedicated. They do a lot of work. I don't always agree individually with some of their votes or decisions, but I think they're very committed to what they do. They do spend time at meetings. And I know that some of them in attending these meetings max out at the amount of money that is capped for them to receive in reimbursement for attending meetings and their travel expenses. So currently the bill, LB 32, would increase that cap. They would go from, I believe it's \$2,800, to \$3,600; \$3,600 would be the maximum that they could receive in compensation. They'd still have to attend the meetings. They would still have to be engaged. And I think it's important that for somebody who's serving without pay, that at least there's some expense reimbursement. So as we have the discussion on Senator Beutler's AM1696 and the whole policy of what we do for reducing our consumption and usage of water, I don't want to overshadow or totally lose sight of the concept of taking care of the compensation to the NRD board members. They represent every one of us in one of the districts or another. The 23 that comprise the watersheds of the state of Nebraska are unique to Nebraska, and they do provide local control through those elected board positions. And those folks who serve from those communities serve because they believe in serving, they have an interest, they are committed and dedicated to serving on the natural resources district boards. And I don't recall when this particular cap was set, but I know that those board members reach that cap before the end of the year, and after that, they're not compensated for attending the meetings that they go to, particularly some of the more involved members who attend various subcommittees, committees, regular meetings, as well as other meetings to help educate and to keep them informed on issues that are before them. So it's a body that's

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frequently--and we can identify with this as legislators--in a thankless position and with very low pay. In fact, theirs is way lower than ours, so I think we can identify with them very well. I would hope that we would have support for the underlying bill, LB 32, and that most of us would have had some kind of contact with our NRD board members and know the positions that they serve, know the dedication that they provide, and certainly recognize that...

SENATOR CUDABACK: One minuta.

SENATOR PREISTER: ...a small increase in the amount that they could receive in total, not an increase in their actual compensation for attending the meetings, but just the increase on the cap that limits the total amount that they can receive. And I thank Senator Schrock for raising the issue, for conducting the hearing, and for bringing the bill before us. Thank you.

SENATOR CUDABACK: Thank you, Senator Preister. Further discussion, Senator Stuthman, followed by Senator Beutler.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I think this amendment is really for discussion purposes, and in studying, you know, what it states in there, you know, that any wells that were drilled, you know, after January 1 of '01 would have to shut down as of January 1 of '07 if we continue to have this problem, the thing that I'm looking at is something that probably a lot of people don't realize what would happen. In these counties where this land was developed for irrigation, valuations went up on that property. Counties utilize that valuation for taxing purposes. And what do they do with that money? The counties run their counties, their schools. Just everything in the county is what property taxes are utilized for. So if this would go into effect, that no one that drilled those wells in the last several years could utilize those wells for the production of their crops, but what are we going to do...what's the county going to do as far as the valuation dollars on those acres? Because those acres will not be able to produce with no water as with water. So I think counties most generally are up against their lid limit. If you

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take away a percentage of their valuation, what are they going to do? They're up against a lid limit. Are they going to have to raise valuations on other property? But even if they raise the valuations on their other property, they're up against a lid limit and the lid limit is as to what they spent the year before, but they won't have near the valuation to utilize for that dollar amount. I think this is...this is something that we got to really take a hard look at, and I'm very glad that we're discussing it this morning because it's going to have a much greater effect on local areas than just saying, well, you people, you can't irrigate anymore. I have a situation in my own area that is very similar to something like this. I have pasture ground rented. It's halfway down a hill. It has a dam in, which a lot of people were, you know, supposed to use conservation practices, put in dams, control the runoff. There was a dam in this one. That's what watered the livestock. The last several years, because of the drought, there is no runoff from the neighbor's property. Farming practices have changed. There is no water in that dam. Can I go to that neighbor and have him haul water to my livestock in that pasture? No, I don't think so. Is he going to pay me for hauling water into that pond? No, I don't think so. It's just something that I have to address. It's a lot more expensive for me to have the cattle in that pasture at the time. So those are things that I'm really concerned with. I realistically think, you know, that giving a couple more years, if we get more rainfall, which we will, some of these streams will flow like they normally did. But one thing we need to remember, you know, we have a lot of conservation practices in place that control a lot of the runoff, and I think what Kansas is wanting is they want that runoff. We in agriculture, you know, do not want a lot of runoff. That's soil conservation...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...and that's very important. So I think, you know, I'm really glad that we have this before us this morning and I think we need to really think of, you know, what will really all happen with this, and we got to take time to discuss that. So I am...I am really keeping my mind open. I want to listen to the discussion. But I think let's be really

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practical as to not to do something immediate when things could happen on their own in a year or two. We're going to get heavy rains again; we always have. We don't have the drought that we had in the thirties. It's going to turn around. And we're getting closer to it turning around every year because we have so many years of drought. So those are my comments. Return the rest of my time back to the Chair. Thank you.

SENATOR CUDABACK: Senator Stuthman. Senator Beutler, followed by Senator Kopplin and others.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I, first of all, really appreciate the fact that people are engaging in this discussion, and there have been a number of very interesting comments and worthwhile comments and relevant comments, all of which deserve discussion on their own. By and large, I'm going to ignore them for the moment, because I want to go back and just, for those of you who aren't...haven't been around water for a long time or are from the city like I am, go back again through some of the fundamentals of what has happened in recent history. Let me say, though, in response to a couple of comments that were made, that yes, this amendment is for discussion only, but only in the sense that the timing of it on this bill is not good. It is not for discussion only, in my opinion. I'm going to ask you to vote on it at some point in time as an element, hopefully, of a broader solution. What I'm trying very much to encourage is a package this year that contains some of those compromises that we all know need to be made. And I will argue, and I'll try to give you more of an idea why as we speak this morning, but I would argue that this particular element should be a part of a plan. The Lower Republican NRD, and this is the last thing I'm going to say before I back up again, the Lower Republican NRD, when it decided to set the number of inches that would be allowable to irrigators this year, made absolutely no distinction between those irrigators who had invested a long time ago and those irrigators who put wells down after January 1, 2001. And we'll get to why that date is important. They made no distinction between those groups, even though those several hundred people who put wells down, when they knew we had a problem, actually were jeopardizing the investment of all of the others who

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already were in a precarious situation because of the drought and because of the Kansas settlement. I think there is a very real reason in all equity that these people should be treated, if not totally differently, at least somewhat differently. Going back to where we...you may recall we started the conversation yesterday with the theory of the commons and the general conceptual problem, and then talking about first in time, first in right on surface water, and correlative rights of everybody sharing equally in ground water. And I started into the conversation about what happened in 1998, and you may recall that we had a bill up before the Natural Resources in 1998 that basically indicated that there would be a moratorium on drilling in the Republican Valley from that point in time forward. It also required water meters throughout the Republican Basin. And that bill did not survive the Natural Resources Committee. But then I tried to show you on a chart, which I passed out to you again, what has happened since 1998 and people everywhere were put on notice that we are in a precarious position. And to remind you of the figures...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...again, from that point in time forward, almost just short of 800 wells were dug in the Republican Valley. Now, if you apply 12 inches of water from each of those nearly 800 wells, and if you multiply that, like say 140 acres, essentially, in terms of your long-term solution, by all accounts and figures I've seen you could solve most of your problem right there. That would mostly solve your problem in terms of the long-term problem. Now, I need to start in...that's one marker to keep in mind, please--1998, the proposed moratorium, the notice that went out...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...across the basin that there's a problem. Thank you, Senator Cudabeck.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion? Senator Kopplin, followed by Senator Chambers. Senator Kopplin.

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SENATOR KOPPLIN: Thank you, Mr. Speaker and members of the Legislature. I rise to speak on a couple of issues. I've noted in this particular session that we can start off with one issue, and as long as we get something in about it, we can kind of drift off to other things. And that might happen, so I apologize ahead of time. Who knows? First of all, I want to say that the underlying bill which Senator Schrock brought to us is needed. We need to do this. If people are putting in their time and their work, we need to pay them. I'll also support Senator Chambers' motion later on in getting the wording correct on that. I may support Senator Beutler's amendment. I'm thinking on it. It doesn't exactly fit what this bill says, but it does deal with the water problem and we need to deal with that. I'm a little bit concerned about the status of the water bills. We have water bills in committee yet that we can't get out. We're discussing how we might deal with the Kansas problem, and others would tell us there isn't a problem; it will go away. I'm not going to support paying anybody to not irrigate when they probably shouldn't have put a well in to begin with. I notice that the discussions now are, well, let's take water out of Harlan County Dam, give it to Kansas. I'm sure Kansas will take that, but that doesn't mean they aren't going to come back and say, yeah, but you owe us more. But I would like to bring something else to your attention. You know, we've been operating kind of under the "Ernie" tax. Now, to me, that's kind of a property tax because, like any property owner, if I don't like the tax I can go to the county commissioners and so on and then cajole them, beg them, to say, lower my tax. And if they're in a good mood, they will do that. I think you can do that same thing here if you're...if the "Ernie" tax comes up. We can...we can maybe exact a lesser tax if we do this, but one tax leads to another and I'm going to tell you there's another one on the table and I call it the "Koppie" tax, K-o-p-p-i-e; not copy tax, "Koppie" tax. It's a different kind of a tax. It's an inheritance tax because I can tell you I am so honored to have worked with Senator Schrock on the water issues, with the rest of the Legislature, but if you can't solve these problems this year, and I know it's going to rain again and some of these problems will go away, but I inherit them next year along with my other freshmen colleagues and 20 new people, and

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the tax may be that we come up with a solution that isn't anywhere near what you think should be done or what should be done. A whole bunch of new people are going to be working on this situation. What Senator Beutler is proposing needs to be discussed. Maybe we should have looked a little bit longer at his proposal for raising money to deal with these issues. But what I'm asking you to think about on these water issues, not only the Legislature...

SENATOR CUDABACK: One minute.

SENATOR KOPPLIN: ...but all that are dealing with it, we need to move these things ahead this year and not leave it to those of us who haven't been working on the problem, to solve next year. Thank you.

SENATOR CUDABACK: Thank you, Senator Kopplin. Senator Chambers, followed by Senator Wehrbein and others.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this issue is going to loom over this Legislature, probably to a greater extent than even some of these school conflicts and these supposed tax reduction bills. And some of that tax legislation may be grafted onto or injected into the water problem. But as I look at Senator Beutler's amendment, I think it is very tightly drawn, so I'm going to share the analysis that I make of it on the basis of how it's written. I see what could be called five parts. Starting in line 2: "No water well constructed after January 1, 2001, in a river basin or part of a river basin," that's one. It tells you the point at which you're going to start applying this language: "constructed after January 1, 2001, in a river basin or part of a river basin." We know what we're dealing with and the time frame. Number two: "that has been the subject of litigation over an interstate compact or decree in which the state of Nebraska was a named defendant." That narrows it to one specific item from which we can move in discussing everything else, and it limits it. Number three, none of these wells, number three: "shall be allowed to pump any water after January 1, 2007." These wells dug or sunk or poked after January 1, 2001, should not be allowed to pump any more water, in my opinion. Senator Beutler,

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generous, compassionate gentleman that he is, as opposed to ma, is willing to allow them to continue engaging in something they should not have started in the first place. But when you engage in risky conduct and the consequences come to fruition, or when the chickens come home to roost, then you know what you've got to deal with it and...with and it's your own conduct that put you there. Number four: "until such time as determined by the Department of Water Resources." They'll be allowed to pump any water after--they'll not be--January 1, 2007, "until such time as determined by the Department of Water Rasources." That doesn't mean they will never. I think they should not be allowed to pump now or any time in the futura. And the way I'm breaking this up...you have it, you can read it. I don't want to put a "not" where there shouldn't be or leave one out where there should be. Then number five: "The deperment may determine the level of all future pumping after January 1, 2007." This is a well-crafted amendment. It addresses precisely the issue before us. There is no attempt to put into this amendment every detail that needs to be worked out, that needs to be considered. It provides a framework and it allows us to join the issue, as they say in court, or come to an understanding of what the dispute is about, and then we can move from there. Had Senator Beutler chosen to do so, even in an amendment which people say is for the purpose of discussion, he could have given us 12 or 13 pages so detailed that nobody would want to read it.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: I wouldn't even want to read it, but I probably would. So anybody who's interested in this subject can grasp what Senator Beutler is saying in his amendment and grasp what he is offering as a temporary solution. So whether he goes forward with this amendment today or not, I think it is worthwhile to have the debate, and I intend to go even further than Senator Beutler has gone. I want to cut these people off now, right now. Any of those wells dug after that date which the wildcatters, you can call them, knew was coming into being so they wanted to beat it, the wildcatters get nothing as far as I'm concerned.

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SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator
Wehrbein, on the Beutler amendment, AM1696, to LB 32.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the
body. I'd like to ask Senator Beutler a question, first of all,
if I may.

SENATOR CUDABACK: Senator Beutler, would you yield?

SENATOR WEHRBEIN: Senator Beutler, is this a bill, or has this
had a hearing?

SENATOR BEUTLER: Senator, it's not a bill and it has not had a
hearing.

SENATOR WEHRBEIN: Thank you. I suppose my heart is with what
Senator Beutler is proposing, but it looks like to me it's going
to be a great difficulty to move this issue forward in this
manner. It seems to me also...it's my understanding NRDs could
have stopped this themselves January 1, 2001. I don't know how
the state can come in four years later, five years later and say
you had to do that. It looks like to me the law was arranged so
that it could have been stopped. It seems to me, as a
nonlawyer, a court would say local control was what we've had in
Nebraska for ground water. They didn't see the need or the
necessity of doing anything about it at that time. In spite of
the fact that as today we've got a problem, when it was able to
be stopped or at least controlled it wasn't done. And for us to
step in years later and try to control it, I don't...even though
I probably would like to, I don't see how that we're going to be
able to move forward and do that. And I was trying to look at
some analogies to some other places. We were discussing liquor
licenses in our committee, the Government...or General Affairs
Committee. We can't stop liquor licenses simply because there's
a saturation at this time. I don't know how we can come in
several years later and said, oh, we allowed too many wells; now
who's going to...who to suffer the pain? It looks like in our

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capitalistic society we don't stop things until it's too late. We're not that forward-looking. That's a mistake on our part, I guess. And it's the same way with the businesses. Small businesses move in; somebody comes in with a bigger filling station, he wipes out all the little ones and we say tough. And it looks like to me, since the NRDs had the local control, had a chance to control this and didn't, I honestly don't see how we can come in legally five years later and say, oh, by the way, maybe we made a mistake; we can't do it. It looks like to me it has to go forward from here and we're going to have to suffer the consequences. And I don't like looking at it this way, but I believe that that's the way we're going to have to look at it. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Stuhr, on the Beutler amendment.

SENATOR STUHR: Thank you, Mr. President and members of the body. I didn't have an opportunity to speak on this subject yesterday and I did just want to say a few words in the fact that I do support the underlying bill. I think it's important that we do some compensation and updating for these members that do serve. I do have problems with Senator Beutler's amendment, which I am sure that he would probably expect, and I just wanted to say that I do believe the discussion has been good. We do need it. It is an issue that is vitally important to our entire state. I have served as a member of the Water Policy Task Force and Senator Schrock has been very involved also in that task force. I believe that we have brought together some good legislation in LB 962 and people now will say, well, we should have done this 10 years ago, or 15 years ago. Yes, it's easy to look back and say, well, we should have done this, or we should have done that, but I believe that Nebraskans are willing to make sacrifices. They are doing many things to conserve water in all areas, and water is vital to this entire state. It's unfortunate that Nebraska did sign the compact, the Republican River Compact, back in 1946 and that we are not changing and we cannot change anything in that compact. But what has stayed the same? Nothing stays the same. But in this area, when we look back and think, we didn't even have irrigation back in 1946, and now look at the technology and the development and the

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importance that we place on irrigation in this state. About nearly \$4.5 billion of our economy comes from irrigation, and that ripple effect of producing crops, then feeding those crops to our livestock and that industry, and all of...and that is worldwide. Also, the ethanol industry, renewable fuels, we're always looking for ways to have some renewable fuels available to us. So I feel we've been doing...we have been proactive in Nebraska. I would not like, and none of us want, to happen what happened in Texas when actually the aquifers did go dry, because I don't...I mean, I don't know, they probably had situations of drought, no restrictions. We have started down the road and the natural resource districts who regulate ground water are working hard. Everyone is working in a manner to conserve water. Whether it's as fast as we want it, we didn't get in this position overnight, but we are. When we say we pump...or we're putting down new wells, I can just tell you that when we first started farming, we used gravity irrigation. We didn't even have enough pipe to do that type of irrigation. We would pick up our pipe and move it across the field, from one to the other, and move it from field to field, lifting up all of that pipe. Now we have gone to pivots, which conserve water, considerably conserve the amount of water that is needed to produce a crop. So we will be talking about the funding issue later this session. It is very important that we continue to do those scientific studies that are needed, that give us the information of where we are fully appropriated, where we can cut back and where we cannot. So I know that that discussion will continue and I hope that we'll all be open-minded.

SENATOR CUDABACK: One minute.

SENATOR STUHR: Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Brown, followed by Senator Loudon.

SENATOR BROWN: Mr. President, I would yield my time to Senator Beutler.

SENATOR CUDABACK: Senator Beutler.

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SENATOR BEUTLER: Senator Brown, thank you. Members of the Legislature, I don't have much further to go here, but it's interesting, and I paid particular attention to the comments of Senator Wehrbein, because he's been around a long time and he's watched these things before. And I think he's quite correct in suggesting that if we went from the 1998 date and attempted to, for example, shut down all the wells after that date, that we may have legal difficulties in doing that. But that brings us to the next marker, the next important marker in the history of this matter, and that's a bill that was passed shortly after the moratorium bill came along, and that was a bill, I believe, Senator Schrock, was your bill, and came because he, too, wanted to recognize and to provide in law a mechanism that both announced the dangerousness of our situation and even attempted to discourage further well drilling by indicating that the district may establish different provisions for the restriction of water wells constructed after January 1, 2001. The Natural Resources Committee put this into law. Everybody who drilled a well, Senator Wehrbein, after January 1, 2001, was subject to a statute that said that the NRDs could treat them differently. That doesn't answer the second part of your point--why would the state want to treat them differently--but I would say to you the message was given to the NRDs. The NRDs failed to stop the drilling and even to this day have failed to treat those people who drilled wells after January 1, 2002 (sic), any differently than anybody else, notwithstanding this statute. And so the thrust of my amendment is to say local control has failed and we need to get ahold of this situation and get it corrected. This was not an impossible task. The people in the Upper Republican at the west end of the state have done brilliantly, and they've done it with far fewer water resources than anybody else in any of the other three NRDs. They have managed. They have courageously allocated, reallocated, dreamed up imaginative ways of sharing wells and sharing water. And, you know, not one year that I've been in this Legislature have I ever seen anybody from the Upper Republican down here asking for state money to bail them out. They operated under the principle of correlative rights--everybody shares equally. They knew that was the statute we put in place. They knew how drought had to be handled. They just did it. They followed the Nike motto--just do it. They didn't get themselves into trouble. And I don't

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know what they're thinking...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...about their brethren in the other NRDs that have failed so miserably in dealing with this situation. So, Senator Wehrbein, I would simply point out to you that there's one more piece here that I'd ask you to think about it--what it meant and what people should have taken from it, and what Senator Schrock certainly intended that they should understand from the enactment of that provision that allows the NRDs to treat differently those who drilled wells after January 1, 2001. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion? Senator Loudon, followed by Senator Beutler.

SENATOR LOUDON: Thank you, Mr. President and members of the body. As I've stated before, I certainly support the underlying bill, LB 32, because I think the NRD people need to be compensated for what they do. At the present, in the last few years it's been very important work that they've done, so we need to have people that are willing to serve, and in order to get people willing to serve, we certainly need...they need to be compensated for, at least, their expenses. I agree with Senator Kopplin when he said if we give water from Herlan County Dam now, what do we have to give next year, and that's a question of whether that's just a short-term measure. If it continues to be dry, we would certainly still be behind next year. And as to Senator Beutler's amendment, I'm glad that he's brought this forward. This needed to be brought forwards for discussion in the Chamber. We've brought...and many viewpoints have come forward on what some of the people are thinking how this should be handled. I don't know as I can support his amendment, the way it was written. I feel that when you completely cut down the wells that were drilled after a certain date, that probably will have quite an adverse effect on the economy down there. I think there are better ways of doing it. I think there has to be some more water restrictions done, such as they've done on the Upper Republican. It can be done, we know that, so I think there are probably better ways. And I think as we work through

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the discussion and look this over, that...point out to the NRDs what needs to be done, again, I think this can be brought forward and there probably will be something that can be done long term. If you just shut the pumping down on these wells and you wait till 2007, it's...this is a short-term effect in...after 2007. Nobody knows for sure, if you shut those wells down, whether it would make any difference for the flow into the Republican River. There has to be some type of model and some type of work done in that area to decide which wells that would affect the flow into the river. In the present time, there's work being done, I think, along that line. Also at the present time we really don't know how much shortage we are going to have into the...for the Kansas...agreement with Kansas. So I think it was good for discussion. I would continue...I hope that we can continue to work on this and come up with a solution. I am optimistic that there are a way that it can be taken care of, and I think we can work our way out of it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Loudon. Senator Beutler, followed by Senators Preister and Stuthman. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, just to follow up, I want to indicate that if you look at the charts again, and this time don't go back to 1998 or the moratorium bill but just go back to 2001 and Senator Schrock's amendment suggesting that those who drill after 2001 will be treated differently, if those wells were not there, that's about 490 wells across the basin, times 12 inches, times 140 irrigated acres. You're talking about roughly 69,000 acre feet of water. Again, that's a huge portion of our problem. That's big. I'm not suggesting that this should be the only solution, but I am suggesting that this should be a part of the solution. And I think conservation fees should be part of the solution, I think the state should be part of the solution, but most of all I think there should be a solution. And Senator Kopplin I very much appreciate because I share the feeling that we ought to deal with this...while Senator Wehrbein is here, while Senator Schrock is here, while there are a lot of people who have an understanding of the issue. But for those of us, again, who are thinking foremost about the general taxpayer, the payer of

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income and sales taxes in the state, again, if we do nothing the default position is payment to Kansas. It will be payment to Kansas of sales and income tax money. And so I don't think, in my mind at least, doing nothing is an alternative. So with that, let me say again how very much I appreciate your tolerance in listening to the argument. I don't know, Senator Schrock, if you have anything more you want to say, but at this point, Senator Cudaback, I will withdraw the amendment.

SENATOR CUDABACK: AM1696 is withdrawn. Mr. Clerk, next amendment, please, when you get time.

ASSISTANT CLERK: Mr. President, Senator Chambers would offer FA371. (Legislative Journal page 453.)

SENATOR CUDABACK: Senator Chambers, to open on FA371 to LB 32.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I had suggested, jestingly, that when I leave this place I ought to be hired to start at page 1 of Volume 1 of the Nebraska Revised Statutes, and read word for word, line for line, page for page, and make corrections in existing language in the statutes, because there have really been some chuckleheaded people here getting stuff enacted into law because they did the best that they could with what they had to work with. But as I've said, when you have somebody with a thimbleful of brains, that person is not going to produce a barrel of sense. So what I'm dealing with now is existing language. I'm not touching anything that would be changed in the original presentation of LB 32. I'm looking at the word "compensated" in line 3 and "compensation" in line 4...I meant in line 11. Brothers and sisters, friends, enemies and neutrals, bear with me while I take a little time and spend it with you this morning on a subject which should give nobody heartburn. It is not controversial in and of itself, but having been in the Legislature all of these years and realizing that my colleagues can wrap their brains around little bitty things that only take three brain cells or fewer, this might inspire a great amount of controversy and debate. So let me proceed in a logical fashion. Compensation relates to wages, pay, salary. You are compensated when you perform work or you provide goods, services or

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something of value. You are compensated for that. Expenses, on the other hand, are different. That word describes out-of-pocket expenditures or obligations assumed by you in doing one thing or another. Expenses are reimbursed. When expenses are reimbursed, the one receiving the reimbursement is not receiving compensation. The reimbursement is not pay for work done, it is not wages for work done, it is not salary. It is to give back to you that which you are out of pocket for. So when this language was put into the statute, people didn't know the difference between compensation and reimbursement because they didn't know there were two words. Anything you got from the state under any circumstances had to be compensation, because that's what they had heard. So they don't look up words even in the dictionary. You could stretch a point and say, because money is being turned over to an individual by the state, I want to call it compensation. Maybe you want to. And maybe if you came along at a less critical time and I was not here, they will put into the law the word "compensation" where it ought to be "reimbursement." But when we are enacting a law, we should try to be as accurate and precise as we can. Obviously, under this bunglesome language, these individuals have been reimbursed for their expenses, but who even takes the time to read the language in the existing law? Senator Schrock is very much on the case when it comes to water and related natural resource issues. This goes into an area where I have a bit of knowledge and interest. This makes me think of a movie I saw a long time ago, and these guys were in a submarine. I don't remember which of the persons that I'll mention was the actor in charge, because they all look alike to me: Burt Lancaster, Victor Mature, Kirk Douglas. They all look alike to me. I don't know one from the other, unless he's wearing a label or he's the only one in the movie and his name is up there. So it was one of those guys. And you heard this sonar sound in the submarine, you know, that little steady beat--"oo, oo, oo." And one of them said, what is that, sir? I can't make that out. I first heard that and saw it when I was a little bitty fellow and I don't remember what it was, but obviously it was something under the water because sonar lets you know that something is there and your sound waves are striking it. But they never made it out and to this day I don't know what it was. But when I looked at this piece of legislation and the language

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in the bill and I saw "compensated," I said I can't make that out. Here is what the existing language says. I want everybody...this is not what it says here. I'm going to get to that. I want everybody to relax. We only have a few minutes before you all can go eat, and when I remind you that you can go eat pretty soon, that should call a surge of good feeling in you. Your spirits rise, your brain clears, and you say, aha, that for which I live is going to happen, so I can stand whatever Ernie is going to do in these few minutes; I'm willing to grant them to him as a matter of fact. And, brothers and sisters, I'm going to take them, not just to try to bring corrections where I think they should exist, but to try to underscore what ought to be the duty of all of us. This whole bill comprises 13 lines, not 13 sentences, 13 lines, and 2 of...4 of them don't even matter. The first two say: "Section 1. Section 2-3218, Revised Statutes Supplement, 2004, is amended to read." You can just disregard those. Then the last two lines: "Section 2. Original Section 2-3218, Revised Statutes Supplement, 2004, is repealed." You can eliminate that. So if you remove four lines, you only have nine lines to deal with, and it seems to me that we could read those line...nine lines and find some of the inaccuracies that I find. But I think I take more seriously what we should do as legislators than my colleagues do. This is not my bill. I don't have any interest in what kind of per diem these people who go to these natural resources districts meetings receive. I don't even care. They're not going to get enough to plunder the treasury so, in a manner of speaking, this is not even the kind of bill that I concern myself with. But since I had said that I'm not going to introduce bills other than one that I did, and I cosigned another with Senator Price, I want to leave my plate clean so that I can stop bad legislation. But I don't want to stop this; I just want to correct it. Now, let me read, starting in line 3, what the current law says...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ..."Board members shall be compensated for their actual and necessary expenses." You are not compensated for expenses; you are reimbursed for expenses. Then we go down to line 9. "Such per diem payments shall be in addition to and

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separate from compensation for expenses." Look, they should have seen that they were on to something here. They said the "per diem payments." Now, that is true; they're being paid with that per diem, for the expenditure of their time and the effort they put forth. They are being compensated for that work by way of the per diem, so it's all right to say "such per diem payments." But then, before they get to the end of the sentence, they run out of gas and say, "compensation for expenses." The pay is compensation.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion, Chambers amendment? You heard the opening. Senator Stuthman, followed by Senator Schrock.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I truly support the efforts of Senator Chambers with this amendment, but I want to speak to, a little bit, about the underlining bill that we have in reimbursement for expenses. The thing that I've noticed with committees, especially, you know, committees that have a lot of work to do, most generally the leadership of those committees, several of the board members of those committees do a lot of work. They do a lot more work than the average committee member that serves on those committees. And I think because of that, there are some that, you know, max out the amount of days that they are reimbursed for. So I really think that this is perfectly a good solution to it, and I'm sure that some of the leadership of especially the NRDs, what have to deal with a lot of issues with water, and that's one of the main issues that we're dealing with right now, I think they will...they will probably put in more days than what they're going to be reimbursed for. So I do support...I support Senator Chambers' amendment and I also truly support the underlining bill. Thank you. (Microphone malfunction)...back to the Chair.

SENATOR CUDABACK: Thank you, Senator. Thank you, Senator Stuthman. Senator Schrock.

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SENATOR SCHROCK: Mr. President, Senator Chambers, I support your amendment. Good job.

SENATOR CUDABACK: Are you...are you finished, Senator Schrock?

SENATOR SCHROCK: I'm done.

SENATOR CUDABACK: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, when I want to pick a fight I can't get one, but in reality I didn't think there would be any here. This is an easy bill for me to deal with because there is not a lot, but there are issues, there are bills in which I have a great amount of interest and concern, but I can't give the time there that I want because I'm doing this kind of work. So before you all let these lobbyists tell you, run in there and tell Chambers you're tired of taking all this time, let them know what our work consists of and tell them to come say that to me. They run all over you all and disrespect you because you let them disrespect you. They drag you out there and treat you like they own you. You are grown men and women and you should not let any of those lobbyists out there treat you like you're their child, or anybody else's child, but you do it. They laugh at you, they mock you, and they try to sic you on me, and you couldn't pour one of them on me. You couldn't pour one of them on me. They know who to pick. They know who to try to buffalo and bully. They know who to try to make fun of and ridicule. But let them come after me the way they do some of our other colleagues who are innocuous people, who are gentle people, who don't bother anybody. And because they are so accommodating, they try to be kind, they are mistreated. But I can't go the bond of somebody who is grown and who is able to say something about not being mistreated and won't. I can't go that person's bond. You all have to get your legs and your feet under you. You have to stand on your feet. You are a biped. You stand on two feet. You're not a quadruped where you walk on all fours, where your spinal column is suspended like a suspension bridge between your front two appendages and your back two. You stand upright, and your eyes are in the front of your face, not one eye on one side

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of your head and one eye on the other side, like a bird and some other critters, or even like this beautiful king cobra. Your eyes are on the front of your head so you can see and perceive death, but also in order that you can look others in their eye. You shouldn't shuffle around here and hang your head and show that you are one of those on whom a spine was wasted. You are one of those who, rather than have knees on the front of your legs, ought to trade those in for feet because you're going to crawl around on all fours for these lobbyists. All that you provide for them is a way to make money by doing nothing. They don't work. They get one of you to offer a crazy bill, then run back and tell their client, I got the bill introduced. Then they don't do any work. Then some of them try to bully the rest of you and say, you better do this, you better do that, and you let them get away with it.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: But they don't mess with me like that, because they are bullies and they are cowards. And they know who they are. But I'm going to keep doing my job the way I think I ought to do it, and I'll do it at my own pace. And if some of these lobbyists are angry at the pace of things, oh, it can go slower. Believe me, it can go slower. They don't like to hang around here because they don't know when something might pop up that they're supposed to say something on. They are out of their minds, and to get there it was a very short journey. They might run some of you all, but they don't run me. And as long as I'm here, they're not going to run the Legislature, because when I see that happening I'll put a stop to it.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you. Senator Beutler, followed by Senator Chambers.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I'm not on theory and principles and issues right now, but you know the interplay of politics with government and what happens

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to our people is so important. Leadership is so important, and I want to just illustrate a little piece of what happened politically on this issue that made it so much harder for everybody in the state. This is the rhetoric of our Attorney General in 1996: Our forefathers' dreams of a land liberated from the ravage of drought by the life-giving waters of irrigation must not be trampled beneath the rush of expedient, shortsighted and misguided good intentions, he said. He said, Nebraska is not using more than its share of Republican River water, even if the ground water were added to the river flows. The compact does not include ground water. Now you come to 1998; the Attorney General is continuing to say this. Here's the transcript from LB 921 in 1998. Senator Beutler, reading from the compact: The compact says that what is subject to the compact is the virgin water supply which is defined to be the water supply within the basin undepleted by the activities of man, undepleted by the activities of man. And Michael Jess says...Michael Jess was director of Water Resources at that time: I think you are reading from the document. I say I am. I said, what would you say...now, would you say that ground water pumping is an activity that is a depletion of man? Mike Jess says, certainly, and that's why it's been included in our calculations. And he says, we've been including them in our calculations since the 1950s. But what's going on at the public level? And what is the responsibility of the NRD managers, as elected officials, to know what's really going on and to speak to the people? What is our obligation to speak to the people? The Attorney General says these things in the face of things like this. We're talking about a New Mexico case...a Texas dispute that has been recently decided, a Colorado-Kansas dispute. Senator Beutler: In both of those cases, alluvial ground water, that is ground water related to the surface water, were included in the settlements by the federal courts under whatever definitions, whatever old definitions pertained to those, in those states. Is that...is that not accurate? Mike Jess says, yes; it's my understanding, yes, i.e., in two recent major cases ground water had been included--further evidence of the total lack of leadership in this state. All right. You want the killer, though? Here it is. Now, in our case, Nebraska's case with Wyoming, I ask, was the subject of ground water a subject of discussion? And remember, we're downstream

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from Wyoming, so what would we be arguing? Well, of course those Wyoming ground water users...of course that should be counted in the water that Wyoming is taking. Mike Jess says it is, and Nebraska has alleged that the unregulated conjunctive...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...use of ground water in Wyoming is having the effect of depleting the flows in the North Platte River, which damaged the interests of Nebraska. So we, arguably, argued successfully for the Panhandle of this state that ground water should be included, while at the very same time the political leadership of this state was saying we're going to win in Kansas because ground water will not be included. How ridiculous can we get? Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Chambers, followed by Senator Erdman.

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Now that Senator Beutler has introduced again a substantive issue I say that I'm glad he did it, that he's reading from the transcript, and he's putting two things side by side so an understanding can be arrived at. I agree with the position being articulated by Senator Beutler. And even when Don Stenberg was in office, I attacked him, criticized him, and joined issue all the time. He was not a good lawyer. He was not a good politician, because when he ran for a higher office he lost. When he ran for Attorney General, he used a code word for racism because he didn't want Gene Crump, a black man who had been an interim Attorney General, to have a chance, and Gene Crump was a much more capable lawyer. So Stenberg talked about these "liberals from the East," to call attention to what he felt were the rubes, the people from the jerkwater areas, the racists, as he perceived them to be; that this is a black man and you don't want to vote for him, but I can't call him a black man. I use the code words that we all understand, just like the racists down South had the code words "states' rights." Everybody knows what those words meant, and Ronald Reagan knew what they meant, and these people who succeeded Ronald Reagan, like George Bush, know what those words meant. And we

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certainly, as black people, know what they meant. But that's the way Don Stenberg operated. I had no respect for him as a lawyer because he did not manifest the traits that would lead to a justification of respect. He had to know better than what he was saying, which meant that if he says something which he knows in his mind is not true, he is lying. If he didn't know that which is obvious and that he ought to have known, he is totally and utterly incompetent. But the people in Nebraska and the legislators follow him, follow him right out of the wilderness into the swamp. And now the chickens are coming home to roost. The issues, the problems that Don Stenberg helped magnify, the increase of liability confronted by Nebraska, which he could have mitigated, are coming to fruition now, and he's telling these Nebraskans, let me go to Washington and do to the state of Nebraska in Washington what I did to the people of Nebraska while I was Attorney General. That's why he said he doesn't want any of the people running in that "Repelican" primary to mention the opponent in any advertisement. That's why he has done all he could to get them to agree not to discuss an opponent's record, because that will be construed as exaggerating or misrepresenting that record. He knows that just to present accurately what he has done would be so devastating that he does not want it mentioned. He doesn't want the public to know what he did. Consider, even if you don't like what I say, if you don't like what Senator Beutler is proposing, you are confronting these serious issues now because, to a great extent, you had an incompetent Attorney General...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...who was more interested in posturing for the public than doing the work that the state's top lawyer ought to have been doing. When these people started drilling all of those wells, they knew what they were doing was ill-advised, ill-conceived, inappropriate. They had not been drilling all those wells before, but they want to get in under the wire. Some of them may have been inappropriately drilled, not just in terms of numbers and general damage. They could have damaged the environment, the ecosystem. They didn't care about that. They wanted to be positioned so that when certain decisions were taken they were under the wire. And now those careless,

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negligent, cunning, calculating people want others in the state, who did as they should have done, to help pay the cost of what they had done. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. I heard Senator Beutler's last speech and I think he had...he had left it hanging as if the reason that something was being done was only to benefit the Panhandle of the state of Nebraska. And I visited with him privately and he said that that was not his intent, but rather to point out the record that was...that was being quoted from, from previous testimony, from previous directors of the Department of Natural (sic) Resources. We get into these arguments back and forth about who does this benefit. Does it benefit this part of the state, or that part of the state? Senator Beutler points out that the agreement between Wyoming and Nebraska was done because of a situation that arose out of the Panhandle specifically, but ultimately as a result of the impact upon the entire citizens of the state of Nebraska. Just as Nebraska is downstream from Wyoming, all of you are downstream from the Panhandle. And the reality is, is that if it's good for western Nebraska and if we make an agreement with Wyoming that's good for the water rights of those individuals, ultimately that will have an impact on the rest of the state. So I wanted to make sure that from the record's perspective that it was...it was clear that Senator Beutler's comments were not intended to be slanted that this was only to benefit one part of the state, but rather to reflect the climate that we were in as part of the public policy that we are debating. These are not easy issues. As a senator that represents people that are on all sides of this issue--I have individuals that are below McConaughy that would like to see people above McConaughy, I have people around McConaughy that would like to have additional water for recreation purposes--this is not an easy issue in my district. And you throw in those issues of Pumpkin Creek and a number of other areas that we have had to address and are continually having to address, regards to public policy, it is not simple. And so I welcome the arguments and the discussions that are going on, recognizing fully that this is not going to be solved by one

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bill at one session, but is going to be an ongoing process that, regardless of whether it's this Legislature and the individuals that are currently here or future legislatures, are going to have to grepple with this issue. So I just wanted to provide that clarity for the record and to make sure that it was reflected that Senator Beutler's comments were not limited specifically to just reflecting the benefit of one area of the state. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Further discussion on the Chambers amendment to LB 32? Senator Chambers, there are no lights on. I will recognize you to close on your amendment, FA371.

SENATOR CHAMBERS: Thank you, Mr. President. I am pleased that people are getting involved whenever the issue is presented, however way it is presented, in the discusaion of the water matter. Senator Erdman shouldn't be so sensitive, but he's young. There are people who are not downstream from the people Senator Erdman was talking about. Rural people have a way of invoking the entire state when there's something they want, but that is not the way it elways goes. I got a long memory, but it doesn't require it to be too long to remember what happened in 2002. Senator Beutlar and others were interested in increasing the membership on the Game and Parks Commission from seven to eight, so that due to populetion shifts there was a better chance to have representation in southeastern Nebrasks. I think Senator Wehrbein may have even agreed with that. And the rural people stood up and seid...not all of them, because Senator Schrock saw the senae of it and Senator Schrock pointed out that you can dig your heels in on this if you want to, but as years go by there will be aven fewer senators from the rurel area and more from the urban area, so sometimes you have to face reality. I bet Senator Schrock didn't even know I remembered that, way back there in 2002. So when they say, from the rural areas, we don't want this urban-rural split, whet they mean is they don't want the urban interests to unite and use their strength to do what will benefit their area, if it means that the disproportionate benefits that they get in the rural area will be diminished in any way. I won't give the year, but there's a young man here from the "Nawfuk" area, and that's the way old

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Senator Peterson used to pronounce it--N-a-w-f-u-k. I spelled it correct to indicate the way he said it without putting that other word in it, but that's what he'd say, "Nawfuk"; he's from the "Nawfuk" area. And he remembers, we were talking about a documentary stamp and most of the money from those documentary stamps, whether you want to call it a tax, a surtax, a surcharge or whatever, came from the eastern side of the state, primarily Omaha. And do you know that young reascal did not want to accept an amendment that said when payouts come from that fund they will be proportionate to the amount of money that went into it from the various areas where the fund was collected? Oh, then he jumped, no, no, no, that's not right; no, you can't say that just because people don't pay much money into the fund they can't get a lot of it out. And that young man's name I will not utter, and thereby he bears no blame. But that's what goes on around here. That's the way things are done here. When I'm not here, people are not going to remember that. Oh, they're going to lose some...when they lose me, baby, you're going to lose a good thing; let me tell you something. There have been these rural-urban splits whenever an issue arose...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...where the two regions did not see eye to eye. Well over 95 percent of the water is used not by people in the urban areas, and Senator Erdman knows that and other people know that. So we're going to do a lot of tangling on this water issue, and I welcome everybody's point of view because that's the kind of discussion we need. And I'm not in favor of dumping everything on the rural people, just 98 percent of it, since they probably use that much of the water. This amendment is very simple in what it does. It substitutes "reimbursement," when we're talking about expenses, for "compensation." Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the closing on amendment FA371. The question before the body is, shall the amendment be adopted to LB 32? All in favor of the motion vote aye; those opposed vote nay. Voting on adoption of the Chambers amendment to LB 32. Have you all voted on the motion who care to? Record please, Mr. Clerk.

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ASSISTANT CLERK: 27 ayes, 0 neys on the adoption of Senator Chambers' amendment, Mr. President.

SENATOR CUDABACK: Chambers amendment has been adopted. Mr. Clerk, anything further on the bill?

ASSISTANT CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Open for discussion on the advancement of LB 32. There are no lights on. Senator Schrock, you're recognized to close.

SENATOR SCHROCK: Mr. President, members of the Legislature, Senator Beutler, Senator Chambers, others who have joined in the discussion, hear me out for a little bit. The Lower Republican NRD Board did nothing wrong, and they have paid a heavy price for their action. They have the lowest allocation of water for their irrigators of any place in the state. If they had not have drilled those last 300 wells, they may not even be on allocation. Roger Patterson and Ann Bleed made sure those wells were accounted for and that they paid a price for it. They did pay a heavy price for it. The NRD board, even though I don't necessarily agree with their decision--I probably would have given the new wells two inches less--made the decision that they wanted to do the least amount of economic damage possible. And if you live in the Republican River Basin, you're very apprehensive about what the Legislature may do to water issues this year, because it is the economic lifeblood of that basin. And without water, that part of our state shrivels up and dries away. There's \$1.2 billion worth of valuation attributed to irrigation in the Republican River Basin. You take that out of the formula and we're going to send a lot more state aid out there. Ray Supalle with the university says irrigation adds \$4.5 billion to the economy of this state. Let's be real careful what we do on irrigation in this state, and if we do have to buy some water from some surface water irrigators in Harlan County and it's prudent to do so, Senator Chambers, I hear you, we better take a good look at it because it's going to be cheaper than paying Kansas. All right. Senator Chambers, Senator Beutler, I totally agree with your comments on our

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former Attorney General. He made life difficult for me. There's another individual in another organization that made life difficult for me. I did want to slow the drilling down; I didn't want to stop it. But I'm telling you, they paid a price for those 300 wells. And if you shut those 300 wells off, the economic damage would be severe and it wouldn't put any more water in the river. Most of them are upland wells. They represent an investment of about \$70,000 apiece, because they all have pivots on them. So let's be careful. I appreciate your comments. Senator Chambers, I do remember the compromise on Game and Parks. It wasn't as much as Senator Beutler wanted, but it was a compromise, and I, like this morning, on the minority position on the Environmental Quality Council, it was a compromise with Senator Preister. I believe, if you're going to get something done, you have to compromise. So I thank you for your discussion. It is my job to defend my constituents in the Republican River Basin. I will tell you that they are very apprehensive about their economy and I think we should try and uphold them and work with them, and I...that's what I've tried to do. And when I disagree with them, I get over it and I move on, and that's what I would ask you to do this morning. It has, really, nothing to do with this bill, but being as I'm the sponsor of the bill, I get the last say. So thank you for the discussion and, amazingly, we agree on more things than we disagree on in this body, and that's what's great about this body. My policy on water for the rest of this session and my term is going to be, do the least amount of economic damage possible, because that's what we're all about. We want rural Nebraska to be healthy, and I think everybody agrees with that. So thank you for your time. I would appreciate the advancement of LB 32.

SENATOR CUDABACK: You've heard the closing on LB 32. The question before the body is, shall LB 32 advance to E & R Initial? All in favor of advancement vote aye; all opposed vote nay. The question before the body is advancement of LB 32. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to advance the bill, Mr. President.

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SENATOR CUDABACK: LB 32 does advance. Mr. Clerk, LB 508, please.

ASSISTANT CLERK: Mr. President, LB 508, introduced by Senator Schrock. (Read title.) The bill was read for the first time January 14 of last year, referred to the Natural Resources Committee. The committee reported the bill to General File with no committee amendments.

SENATOR CUDABACK: Senator Schrock, to open on LB 508.

SENATOR SCHROCK: Just a moment, Mr. President. Mr. President, we don't find committee amendments. We think it's...is there a mistake there?

SENATOR CUDABACK: There are no committee amendments, Senator.

SENATOR SCHROCK: All right, thank you.

SENATOR CUDABACK: You bet. You're recognized to open on LB 508.

SENATOR SCHROCK: Mr. President, members of the Legislature, it's me again. I'm back. (Leugh) I will open on this bill and I think it's a very straightforward bill. In 1994, the Legislature established the Water Well Decommissioning Fund in the Natural Resources Commission. The purpose of this fund was to assist the natural resource districts with accelerating the decommissioning of illegal wells in the state of Nebraska to protect ground water from contamination. The program is a cost-share program, funded by a combination of state fees on well registration and local natural resource districts property tax fund. This program has helped pay the cost of having licensed well drillers properly decommission more than 1,000 abandoned wells every year. This fund does not generate money from your sales and income tax. There's a \$3 fee every time you drill a well--domestic, livestock, irrigation, whatever--and then the natural resource districts cost-share on that. Currently, the formula for distribution to the districts is based on the percentage of the number of illegal wells

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decommissioned in each district in relation to the total number of wells decommissioned in the state during the previous year. This can change year to year, but it's based on the number of wells decommissioned in each NRD district. The bill increases the maximum amount from \$300 to \$500 for the decommissioned wells, other than the hand-dug wells, to ensure the landowners can receive at least 60 percent of the cost-share. This allows for increased costs of decommissioning since the program was established ten years ago. Under the bill, a local natural resources district could establish maximum cost-share assistance amounts that will be provided to the landowners for decommissioning water wells based on the well's depth, the diameter, and to ensure the landowners will be compensated for at least 60 percent of the cost of well decommissioning. It would also allow districts to account for the cost differential of properly closing different size well. It was advanced to General File unanimously. I have decommissioned wells on my place and every time we do that it costs the landowner money. But if we didn't cost-share in this, we probably wouldn't be decommissioning a lot of wells, and I think it's appropriate that the state share in that. But keep in mind, this is not necessarily a state-funded program. It's funded by your NRD's property tax and by a \$5 fee on each new well. It's been a good program, a successful program. We need to continue it. And with the cost of everything going higher, we need to increase that, our, the NRD's portion, so that they can go from \$300 per decommissioned well to \$500. If you have any questions, I will try and answer them. It's a fairly straightforward bill. It's a good program. We need to continue it. We're just updating the quantity of money that the NRDs can cost-share with. Thank you.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on LB 500. Mr. Clerk, amendment, please.

ASSISTANT CLERK: Mr. President, Senator Beutler would offer FA77.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature,

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for myself, I've had enough discussion on water today. I'd withdraw the amendment and ask the Clerk to refile it on Select File.

SENATOR CUDABACK: So ordered.

ASSISTANT CLERK: Mr. President, I have nothing further on the bill.

SENATOR CUDABACK: Thank you, Mr. Clerk. Discussion on the advancement of the bill itself? For discussion, Senator Chambers.

SENATOR CHAMBERS: Mr. President, I have a question of Senator Schrock, and it will be on page 2 of the bill, in line 6, where the word "initial" in front of the word "allocations" is being stricken. What...

SENATOR CUDABACK: Senator Schrock.

SENATOR CHAMBERS: ...what was the purpose of the word...okay, let me say this. It would appear that by using the word "initial" allocations that...

SENATOR SCHROCK: Senator Chambers, where are we at? What...say again.

SENATOR CHAMBERS: Page 2, line 6.

SENATOR SCHROCK: Okay.

SENATOR CHAMBERS: It would appear that to say "initial" allocations would mean that there would be subsequent allocations. If that is true, why would they strike "initial"? And if it's not true, why was "initial" put there? So my real question is, why is this word being stricken and what impact will it have?

SENATOR SCHROCK: Senator Chambers, I'm going to assume that, being as it was a new program back in 1994, "initial" referred to the start-up of the program. Now that the program has been

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in place for awhile, the word "initial" is probably not appropriate.

SENATOR CHAMBERS: Okay.

SENATOR SCHROCK: I'm just speculating there.

SENATOR CHAMBERS: Well, that's good enough, because people who are affected by this probably saw it, but I just wanted, for my information, to understand what was going on. And that's all that I would have. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the advancement of LB 508? Senator Schrock, there are no lights on. The Chair recognizes you to close on that. Senator Schrock waives closing. The question before the body is, shall LB 508 advance to E & R Initial? All in favor of the motion vote aye; those opposed vote nay. The question before the body is advancement of LB 508. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays on the motion to advance, Mr. President.

SENATOR CUDABACK: LB 508 does advance. Mr. Clerk, items for the record, please.

ASSISTANT CLERK: Mr. President, your Committee on Agriculture reports LB 916 advanced to General File. Committee on Banking reports LB 868 and LB 926 to General File, both with amendments. Amendment to be printed to LB 861 from Senator Howard. Name adds, Mr. President: Senator Aguilar to LB 869, Senator Thompson to LB 1079. (Legislative Journal pages 465-466.)

And I do have a priority motion. Senator Cornett would move to adjourn until Thursday, January 26, at 9:00 a.m.

SENATOR CUDABACK: Heard the motion to adjourn by Senator Cornett till January 26. All in favor of the motion vote...or say aye. Opposed, nay. We are adjourned.

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